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LANSING

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Analysis of Enrolled Senate Bill 577

Topic: Requirements for Owner-Builders of Residences
Sponsor: Senator Gilbert
Committee: House Regulatory Reform
Senate Economic Development and Regulatory Reform
Date Introduced: June 7, 2007
Date Passed Senate: October 24, 2007
Date Passed House: January 24, 2008
Date Enrolled: January 29, 2008
Date of Analysis: January 29, 2008

Position: The Department of Labor & Economic Growth supports the bill.

Problem/Background: An exemption in builder's licensing legislation has sometimes been abused by unlicensed builders who use the exemption to build homes then sell them to unsuspecting homeowners. When problems occur, there is no responsibility on the part of the unlicensed builder to make corrections. In addition, suppliers and subcontractors may be left unpaid, if the unlicensed contractor does not live up to his or her financial obligations. The legislation was requested to discourage the abuse of this provision, without making it impossible for an individual to build his or her own home.

Description of Bill: The bill creates a new requirement for owner-builders who transfer ownership of their home within 24 months to provide notice to the buyer that the home was not built by a licensed residential builder, but an owner-builder.

The bill prescribes the language for the notice to the homeowner and provides penalties for failure to provide the notice, including responsibility to repair any problems at the owner-builder's expense for 24 months after a specified period.

In addition, the owner builder cannot sell the property for at least one year, except in the event of unforeseen circumstances. The exception to the one year requirement may only be used once in any year.

The bill provides for civil action by an aggrieved home buyer.

The bill takes effect 180 days after enactment.

Arguments For:

- This is a public protection measure, intended to protect unsuspecting homeowners from unlicensed and untrained practitioners.
- It also may serve to upgrade the occupation, and protect those in the profession who see unlicensed practitioners who fail to meet the appropriate standards, yet making a living by building homes. Suppliers and subcontractors can be hurt by unlicensed practitioners, yet have no recourse against them.
- The bill provides one more avenue to protect the public from unlicensed practitioners, but places no new burdens upon state government.

Arguments Against:

- It may be difficult to promote and enforce such a law, as there is no method for informing the public, other than a mandate for unlicensed builders to inform their customers.
- Those who successfully build and sell homes using this mechanism will see their livelihoods end, unless they can qualify for a license, which has just become harder to do with new education and fee requirements. *Response: For the most part, those who would be affected are operating outside the intent of the law now.*
- Anything that makes it harder for someone to sell their home in a depressed market could further harm the economy. *Response: as noted above, the harm would be primarily someone who is trying to circumvent the law, and this is not expected to be a large number. There is a provision that the home could be sold if, for unforeseen circumstances, the individual is unable to reside in the structure.*

Supporters: The lobbyist for the lumber dealers and suppliers was instrumental in getting the bill introduced.

Opponents: Five legislators in the House opposed the passage of the bill, and voiced their opposition to it, believing that restricting sale of homes is harmful to the economy.

Fiscal/Economic Impact:**a) Department:**

Budgetary: There are no budget implications for the department.

Revenue: None.

b) State of Michigan: There is no fiscal impact on the state.

c) Local Government: There is no local government impact.

Other State Departments Affected: There are no other state departments directly affected by the bill.

Other Pertinent Information: None.

Administrative Rules Impact: No new or revised administrative rules will be needed to implement this bill.